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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

EXAMINER	
MISLEH, JUSTIN P	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	**Application No.** 10/677,118	**Applicant(s)** BEAR ET AL.
	Examiner JUSTIN P. MISLEH	**Art Unit** 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 February 2008*.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 57* is/are pending in the application.
4a) Of the above claim(s) *1 - 17, 22 - 24, 31 - 37, 43 - 45, 47 - 50, and 54 - 56* is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☐ Claim(s) *18 – 21, 25 – 30, 38 – 42, 46, 51 – 53, and 57* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *30 September 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a)☐ All b)☐ Some * c)☐ None of:
1.☐ Certified copies of the priority documents have been received.
2.☐ Certified copies of the priority documents have been received in Application No. _____.
3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date *7 pages 1449*.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II (figures 4 -6, 8, 10 and 11) and in the reply filed on February 11, 2008 is acknowledged. Claims 18 – 53 and 57 have been elected and the Examiner has been authorized to cancel the remaining Claims 1 – 17 and 54 – 56.

2. The Examiner respectfully disagrees that all of Claims 18 – 53 and 57 belong to the elected species. Claims 22 – 24 require changing the control handling logic to stopped, capturing, and paused, respectively. These features are clearly shown in non-elected figure 9. Claims 31 – 34 and 43 – 45 are directed towards executing operations in regards to a telephone call. These features are clearly shown in non-elected figure 7. Claims 35 – 37 and 47 – 50 deal with verifying/determining that the camera lens is uncovered and subsequently capturing video. These features are clearly shown in non-elected figures 3 and 9 and described on page 27 (line 14) – page 28 (line 17).

3. Hence, the Examiner believes Claims 18 – 21, 25 – 30, 38 – 42, 46, 51 – 53, and 57 actually read on the elected species and Claims 1 – 17, 22 – 24, 31 – 37, 43 – 45, 47 – 50, 54 – 56, and 58 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 510 (figure 5).

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: typographical error.

On page 22 (line 2), the keyboard is labeled with number 216. The keyboard is actually shown as number 162 in figure 4. Appropriate correction is required.

On page 23 (lines 7 – 22), the alternative control panel is labeled with number 720. The panel is actually shown as number 740 in figure 7. The same paragraph indicates video controls 402 are shown in figure 7; however, the figure does not identify the video controls 402.

Claim Objections

6. **Claim 57** is objected to because of the following informalities: lack of clarity and precision.

Claim 57 recites, in the preamble, “a computer-readable medium having computer-executable instructions, comprising”. However, the body of the claim does not describe the computer-executable instructions. Rather, the body of the claim appears to recite a series of steps performed by the computer-executable instructions when executed. The claim should be changed to recite the computer-executable instructions in the body of the claim and that the computer-executable instructions when executed cause the computer perform the currently claimed series of steps. **Appropriate correction is required.**

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. **Claim 38 and 57** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. For **Claim 38**, the claim recites, “a computer-readable medium having computer-executable instructions for performing the method of claim 18” and, for **Claim 57**, the claim recites, “a computer-readable medium having computer-executable instructions, comprising”. According to the specification, on page 11 (lines 11 – 23), a computer-readable medium may comprise a “modulated data signal” including “a carrier wave or other transport mechanism and includes any information delivery media”.

As stated in MPEP § 2106.01, “When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)." The Examiner respectfully notes Claims 38 and 57 both appear to satisfy this requirement.

However, according to the *Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, ANNEX IV Computer-Related Nonstatutory Subject Matter* (published on 22 November 2005 in the Official Gazette Notices), "Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in Sec. 101."

Since, the specification indicates that the claimed "computer-readable medium" may comprise a "modulated data signal" including "a carrier wave or other transport mechanism and includes any information delivery media" (i.e., physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism), it does not appear that either Claim 38 or Claim 57 falls within any of the categories of patentable subject matter set forth 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. **Claim 18 – 21, 25 – 27, 30, and 38** are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al. (US 6,380,968 B1).

12. For **Claim 18**, Alexander et al. disclose, as shown in figures 3 and 4, a method for capturing video in a computer system (see figures 1, 2, and 7), comprising the steps of:

receiving an input signal (see steps 302 and 304) from a video control (user input device 116) requesting a change in a state of operation of control handling logic for capturing video in the computer system (see column 9, lines 11 – 22);

changing the state of operation of the control handling logic for capturing video (see figures 5 and 6 and column 12, lines 10 – 54); and

executing a mode of operation for capturing video for the changed state (see steps 306 – 312; see column 9, lines 22 – 27).

13. As for **Claim 19**, Alexander et al. further disclose, as shown in figure 2, the step of saving the video on a computer-readable medium (image analysis circuit 206 including streaming buffer 207 and capture buffer 209).

14. As for **Claim 20**, Alexander et al. disclose, as indicated in column 9 (lines 11 – 22), wherein receiving an input signal (see steps 302 and 304) from a video control (user input device 116) comprises receiving an input signal from a capture button (see column 6, line 52 – column 7, line 9).

The claim language does not specify what the claimed "capture button" is or what the claimed "capture button" does. In this case, there is no reason why the user input device 116 does not qualify as a capture button itself or why it does not comprise a capture button.

15. As for **Claim 21**, Alexander et al. disclose, as indicated in column 9 (lines 11 – 22), wherein receiving an input signal (see steps 302 and 304) from a video control (user input device 116) comprises receiving an input signal from a shutter button (see column 6, line 52 – column 7, line 9).

The claim language does not specify what the claimed "shutter button" is or what the claimed "shutter button" does. In this case, there is no reason why the user input device 116 does not qualify as a shutter button itself or why it does not comprise a shutter button.

16. As for **Claim 25**, Alexander et al. disclose, as shown in figures 5 and 6, wherein changing the state of operation of the control handling logic for capturing video comprises activating an indicator using at least one member of the set comprising visual, audible, and tactile representations (When an input is detected from the user input device 116, the display device is shows that input; see column 10, lines 10 – 54).

17. As for **Claim 26**, Alexander et al. disclose, as stated in column 9, lines 23 – 27, wherein executing a mode of operation for capturing video comprises capturing a still image (After an input is detected from the user input device 116, a captured image is stored in the capture buffer 209; also see steps 306 – 312).

18. As for **Claim 27**, Alexander et al. disclose, as stated in column 9, lines 23 – 27, wherein executing a mode of operation for capturing video comprises capturing a video stream (After an

input is detected from the user input device 116, a captured image is stored in the capture buffer 209 and video image capture is resumed; also see steps 306 – 312).

19. As for **Claim 30**, Alexander et al. disclose, as shown in figures 5 and 6, wherein executing a mode of operation for capturing video comprises streaming video for preview on a display (also see steps 306 – 312 in figure 3).

20. For **Claim 38** (please also see 101 rejection above), Alexander et al. disclose, as stated in column 13 (lines 23 – 28), a computer-readable medium (mass storage device 720) having computer-executable instructions for performing the method of Claim 18.

21. **Claim 39 – 42 51 – 53, and 57** are rejected under 35 U.S.C. 102(b) as being anticipated by Greer et al. (US 5,959,622).

22. For **Claim 39**, Greer et al. disclose, as shown in figures 4 and 5, a method for capturing video in a computer system (see figure 1), comprising the steps of:

receiving an input signal (step 401; see figure 4) from a video control (mouse 114 and/or keyboard 116) requesting a change in a state of operation of a control handling logic in the computer system for selecting a type of video to capture (step 402; see figure 4; column 2, line 66 – column 3, line 10; and column 3, lines 21 – 37);

changing the state of operation of the control handling logic for selecting the type of video to capture (steps 402 and 404; see figure 4 and column 3, lines 21 – 55); and

executing a mode of operation for capturing the selected type of video (step 404; see figure 4 and column 3, lines 21 – 55).

23. As for **Claim 40**, Greer et al. further disclose the step of saving the selected type of video on a computer-readable medium (see column 3, lines 26 – 31).

24. As for **Claim 41**, Greer et al. disclose wherein selecting the type of video to capture comprises selecting a still image (step 402 – 404; see figure 4 and column 3, lines 21 – 55).

25. As for **Claim 42**, Greer et al. disclose wherein selecting the type of video to capture comprises selecting a video stream (After the still image is captured, the video conference is resumed; see column 2, lines 60 – 65.).

26. As for **Claim 51**, Greer et al. disclose, as stated in column 3 (lines 37 – 55) and column 4 (lines 33 – 37), wherein changing the state of operation of the control handling logic for selecting the type of video to capture comprises activating an indicator using at least one member of the set comprising visual, audible, and tactile representations.

27. As for **Claim 52**, Greer et al. disclose wherein receiving an input signal from a video control (mouse 114 and/or keyboard 116) comprises receiving an input signal from a shutter button (see column 2, line 66 – column 3, line 10; and column 3, lines 21 – 37).

The claim language does not specify what the claimed "shutter button" is or what the claimed "shutter button" does. In this case, there is no reason why the mouse 114 or keyboard 116 does not qualify as a shutter button itself or why it does not comprise a shutter button.

28. As for **Claim 53**, Greer et al. disclose wherein receiving an input signal from a video control (mouse 114 and/or keyboard 116) comprises receiving an input signal from a capture button (see column 2, line 66 – column 3, line 10; and column 3, lines 21 – 37).

The claim language does not specify what the claimed "capture button" is or what the claimed "capture button" does. In this case, there is no reason why the mouse 114 or keyboard 116 does not qualify as a capture button itself or why it does not comprise a capture button.

29. For **Claim 57** (please also see 101 rejection and claim objection above), Greer et al. disclose, as stated in column 6 (lines 34 – 54), a computer-readable medium having computer-executable instructions for performing the method of Claim 39.

30. **Claims 18, 28, 29, 39, and 46** are rejected under 35 U.S.C. 102(e) as being anticipated by Watanabe et al. (US 6,545,775 B1).

31. For **Claim 18**, Wantanabe et al. disclose, as shown in figures 2 – 5, a method for capturing video in a computer system (1 and 2), comprising the steps of:

receiving an input signal from a video control (I/F #1 4) requesting a change in a state of operation of control handling logic for capturing video in the computer system (see step 201 in figure 3 and column 6, lines 21 – 26);

changing the state of operation of the control handling logic for capturing video (see step 205b in figure 3 and column 7, lines 46 – 54); and

executing a mode of operation for capturing video for the changed state (see steps 402 – 408 in figure 5 and column 8, line 55 – column 9, line 54).

32. As for **Claim 28**, Wantanabe et al. disclose, as shown in figure 5, wherein executing a mode of operation for capturing video comprises moving a lens cover to uncover a lens (see step 402).

33. As for **Claim 29**, Wantanabe et al. disclose, as shown in figure 5, wherein executing a mode of operation for capturing video comprises moving a lens cover to cover a lens (see step 408).

34. For **Claim 39**, Wantanabe et al. disclose, as shown in figures 2 – 5, a method for capturing video in a computer system (1 and 2), comprising the steps of:

receiving an input signal from a video control (I/F #1 4) requesting a change in a state of operation of control handling logic in the computer system for selecting a type of video to capture (see step 201 in figure 3 and column 6, lines 21 – 26);

changing the state of operation of the control handling logic for electing the type of video to capture (see step 205b in figure 3 and column 7, lines 46 – 54); and

executing a mode of operation for capturing the selected type of video (see steps 402 – 408 in figure 5 and column 8, line 55 – column 9, line 54).

35. As for **Claim 46**, Watanabe et al. disclose, as shown in figure 5, wherein executing a mode of operation for capturing the selected type of video comprises the steps of: automatically opening a movable lens cover to uncover the camera lens; and capturing the type of video selected (see steps 402 – 408 and column 8, line 55 – column 9, line 54).

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure for the following reasons:

- **US 6,680,845 B2** discloses an information processing apparatus having a computer body, a keyboard, a display, and a camera section provided on the computer body.

- **US 2003/0146907 A1 and US 2003/0197685 A1** each disclose a keyboard (both wired and wireless) with a built-in web camera.
- **US 6,944,700 B2** discloses a computer system with an attached digital camera and method transferring data between the host system and the digital camera.

Conclusion

37. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lin Ye can be reached on 571.272.7372. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Justin P. Misleh/
Examiner, Art Unit 2622
March 26, 2008